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COMMISSION ON HUMAN RIGHTS
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Agenda item 4

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Mr. Ali Khan, Ms. Attah, Ms. Daes, Mr. Eide, Ms. Ferero Ucros, Mr. Fix Zamudio, Mr. Hatano, Mr. Maxim, Ms. Palley, Mr. Park, Ms. Warzazi, Mr. Weissbrodt and Mr. Yimer: draft resolution

1997/... Forced evictions

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolutions 1991/12 of 26 August 1991, 1992/14 of 27 August 1992, 1993/41 of 26 August 1993, 1994/39 of 26 August 1994, 1995/29 of 24 August 1995 and 1996/27 of 29 August 1996,

Recalling also Commission on Human Rights resolution 1993/77 of 10 March 1993 and the analytical report on forced evictions prepared by the Secretary-General (E/CN.4/1994/20) and submitted to the Commission at its fiftieth session,

Reaffirming that every woman, man and child has the right to a secure place to live in peace and dignity, which includes the right not to be evicted arbitrarily or on a discriminatory basis from one's home, land or community,

Recognizing that the practice of forced eviction often involves the coerced and involuntary removal of persons, families and groups from their homes, lands and communities, resulting in greater homelessness and inadequate housing and living conditions,

Noting that when, under exceptional circumstances, evictions are considered to be justified, such evictions must be carried out in strict compliance with relevant human rights provisions which demand, inter alia, that such evictions must not be carried out on a discriminatory or arbitrary basis, that evictions must be carried out through legal procedures that ensure appropriate due process protections and that, owing to the universal right to housing which is enshrined, most notably, in article 11 of the International Covenant on Economic, Social and Cultural Rights, such evictions must not result in individuals being rendered homeless or vulnerable to other human rights violations,

Emphasizing that ultimate legal and political responsibility for preventing forced evictions rests with Governments,

Recalling that General Comment No. 2 (1990) on international technical assistance measures, adopted by the Committee on Economic, Social and Cultural Rights at its fourth session, states, inter alia, that international agencies should scrupulously avoid involvement in projects which involve, among other things, large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation (E/1990/23, annex III, para. 6), and General Comment No. 4 (1991) in which the Committee considered that instances of forced eviction were, prima facie, incompatible with the requirements of the International Covenant on Economic, Social and Cultural Rights and could only be justified in the most exceptional circumstances, and in accordance with relevant principles of international law (E/1992/23, annex III, para. 18),

Noting with appreciation the adoption of General Comment No. 7 (1997) on forced evictions by the Committee on Economic, Social and Cultural Rights (E/C.12/1997/4), in which the Committee recognized, inter alia, that women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable groups all suffer disproportionately from the practice of forced eviction, and that women in all groups are especially vulnerable, given the extent of statutory and other forms of discrimination which often apply in relation to the property rights of women, including home ownership and rights of access to property or accommodation, and given the particular vulnerability of women to acts of violence and sexual abuse when they are rendered homeless,

Noting also the provisions on forced evictions contained in the Habitat Agenda (A/CONF.165/14, annex II) adopted by the United Nations Conference on Human Settlements (Habitat II) convened in Istanbul in June 1996,

1. Reaffirms that forced evictions may often constitute gross violations of a broad range of human rights, in particular the right to adequate housing, the right to remain, the right to freedom of movement, the right to privacy, the right to property, the right to an adequate standard of living, the right to security of the home, the right to security of the person, the right to security of tenure and the right to equality of treatment;

2. Strongly urges Governments to undertake immediately measures, at all levels, aimed at eliminating the practice of forced eviction, by, inter alia, ensuring the right to security of tenure for all residents;

3. Also strongly urges Governments to confer legal security of tenure on all persons, including all women and men who are currently threatened with forced eviction, and to adopt all necessary measures giving full protection against unreasonable eviction, based upon effective participation, consultation and negotiation with affected persons or groups;

4. Recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their rights and needs, to persons and communities that have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups, and recognizing the obligation to ensure such provision in the event of any forced eviction;

5. Invites all international financial, trade, development and other related institutions and agencies, including member or donor States that have voting rights within such bodies, to take fully into account the views contained in the present resolution and other related pronouncements under international human rights and humanitarian law on the practice of forced eviction;

6. Requests the High Commissioner for Human Rights to give due attention to the practice of forced eviction in discharging her responsibilities and to undertake measures, whenever possible, to persuade Governments to comply with relevant international standards, to prevent planned forced evictions from taking place, and to ensure the provision of adequate compensation when forced evictions have already occurred;

7. Welcomes the report of the expert seminar on the practice of forced evictions, which was convened by the Secretary-General in Geneva from 11 to 13 June 1997 (E/CN.4/Sub.2/1997/7) and the comprehensive human rights guidelines on development-based displacement adopted by the expert seminar and annexed to its report;

8. Requests the Commission on Human Rights to invite all States to consider the comprehensive human rights guidelines on development-based displacement with a view to their approving guidelines for such displacement as soon as possible;

9. Decides to consider the issue of forced evictions at its fiftieth session under the agenda item entitled "The realization of economic, social and cultural rights", insofar as necessary to achieve the objectives outlined in paragraph 8 above, and to determine how most effectively to continue its consideration of the issue of forced evictions.